

United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Lloyd D. George United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. FRANKS) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 437 designates the United States courthouse to be built in Las Vegas, Nevada, as the Lloyd D. George United States Courthouse.

Judge Lloyd D. George was born in Montpelier, Idaho, and later moved and attended schools in Las Vegas, Nevada. He earned his B.S. from Brigham Young University in 1955, and that same year entered the United States Air Force. He participated as a fighter pilot in the Strategic Air Command, concluding his military service in 1958, holding the rank of captain. He then returned to school where he earned his J.D. in 1961 from the University of California at Berkeley.

Judge George was admitted to the Nevada Bar in 1961 and began practice in Las Vegas. In 1974 he was appointed by the Ninth Circuit to preside over the United States Bankruptcy Court for the District of Nevada for a term of 14 years. In 1980 he became a member of the Ninth Circuit Bankruptcy Appellate Panels.

In 1984, President Ronald Reagan appointed Judge George to the United States District Court for the District of Nevada, where he was elevated in 1992 to Chief Judge of the Nevada District.

During his tenure on the bench, Chief Judge George held a variety of distinguished memberships. He was a board member on the Federal Judicial Center, a member of the National Bankruptcy Conference, the Chair of the Judicial Advisory for Bankruptcy Rules, the Chair of the Judicial Committee on Administration of Bankruptcy System, a Fellow at the American College of Bankruptcy, and a member of the Judicial Conference on International Judicial Relations.

I fully support the bill and urge my colleagues to support it as well.

Mr. Speaker, I reserve the balance of my time.

Ms. BERKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of designating the United States courthouse in Las Vegas, Nevada, as the Lloyd D. George United States Courthouse. It is my sincere pleasure to introduce this measure, and I have worked very hard to bring it to the House floor. I would like to thank all of those that helped in this endeavor, particularly the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Penn-

sylvania (Chairman SHUSTER), and my colleague in the United States Senate, Senator HARRY REID.

I cannot think of a more suitable honor to bestow on this beloved Las Vegas, who has served the citizens of his home State of Nevada with humility, humanity, compassion, and dignity. In fact, the new Federal courthouse which this bill names is located right across the street from where Judge George attended grade school and within one block of his high school alma mater.

I would like to highlight some of Judge George's tremendous accomplishments. From his early days, as both high school and college student body president, Judge George demonstrated outstanding leadership abilities. Judge George served our country as an Air Force pilot before receiving his juris doctorate in 1961 from the University of California at Berkeley.

Among his numerous achievements, Judge George has been the recipient of the Jurist of the Year Award, the Liberty Bell Award for public service, and the Brigham Young University Alumni Distinguished Service Award.

He has served as former chairman of the State Apprentice Council, former president of the Clark County Association for Retarded Children, and a member of the National Advisory Council for the J. Willard and Alice S. Marriott School of Management.

From 1974 until 1984 Judge George served as the United States Bankruptcy judge. He also served as a National Bankruptcy Conference member and an American College of Bankruptcy fellow and a Judicial Conference member.

In May of 1984, Judge George was appointed U.S. District judge for the District of Nevada. He served as Chief District judge from 1992 to 1997 and assumed senior status in December of 1997.

Not only has Judge George served our Nation, he has also participated in numerous global committees, such as the International Judicial Relations Committee of the Judicial Conference, and has led seminars on legal topics in central and eastern Europe. What an extraordinary example he is for all of us.

When I think of Judge George, I see him administering the oath of allegiance to new citizens that are receiving their citizenship in the State of Nevada. I can tell you, when he administers this oath, there is not a dry eye in the house. This very sensitive, very compassionate man welcomes these people as new citizens to our country, and he does it with such charm and dignity that it makes us all very proud to be Americans. That is why it is most fitting and proper to honor the long, distinguished career of Judge George with this designation. I urge all of us to support this.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I want to especially express my appreciation to the gentleman from Pennsylvania (Chairman SHUSTER) for bringing this bill forward, and to the chairman of the subcommittee, the gentleman from New Jersey (Mr. FRANKS) for acting on the bill so quickly.

After a long gestation period, this bill has been awaiting action; but it is, as both the chairman of the full committee and chairman of the subcommittee have noted, a deserving recognition for a noted jurist.

I want to also commend my colleague, the gentlewoman from Nevada (Ms. BERKELEY), on her persistence in advocating for this legislation and to the Senator from Nevada, Mr. REID, for being such a strong champion of naming the building for Judge Lloyd D. George.

I did not have the pleasure, as the gentlewoman from Nevada has had, of knowing Judge George, but on a recent visit last month to Nevada, where I met with many of the gentlewoman's constituents, spontaneously and without prompting, each came forward to extol the virtues of this great jurist. He certainly is a living legend, loved and respected, admired and appreciated by all who know of him, and maybe have been adjudicated by him.

But certainly this naming by popular appeal is exceptional. He is a man of great judicial capacity, but also great compassion, as the gentlewoman has so appropriately noted; and I am delighted we at last have this opportunity to bring to conclusion the appropriate naming of the U.S. courthouse and Federal building in Las Vegas for Judge Lloyd D. George. I compliment the gentlewoman on her success in achieving this breakthrough.

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Ms. BERKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. FRANKS of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GIBBONS). The question is on the motion offered by the gentleman from New Jersey (Mr. FRANKS) that the House suspend the rules and pass the Senate bill, S. 437.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1652 and S. 437.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRADEMARK CYBERPIRACY PREVENTION ACT

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3028) to amend certain trademark laws to prevent the misappropriation of marks, as amended.

The Clerk read as follows:

H.R. 3028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the “Trademark Cyberpiracy Prevention Act”.

(b) REFERENCES TO THE TRADEMARK ACT OF 1946.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled “An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 2. CYBERPIRACY PREVENTION.

(a) IN GENERAL.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by inserting at the end the following:

“(d)(1)(A) A person shall be liable in a civil action by the owner of a mark, including a famous personal name which is protected under this section, if, without regard to the goods or services of the parties, that person—

“(i) has a bad faith intent to profit from that mark, including a famous personal name which is protected under this section; and

“(ii) registers, traffics in, or uses a domain name that—

“(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

“(II) in the case of a famous mark that is famous at the time of registration of the domain name, is dilutive of that mark; or

“(III) is a trademark, word, or name protected by reason of section 706 of title 18, United States Code, or section 220506 of title 36, United States Code.

“(B) In determining whether there is a bad-faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—

“(i) the trademark or other intellectual property rights of the person, if any, in the domain name;

“(ii) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

“(iii) the person's prior lawful use, if any, of the domain name in connection with the bona fide offering of any goods or services;

“(iv) the person's lawful noncommercial or fair use of the mark in a site accessible under the domain name;

“(v) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

“(vi) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an in-

tent to use, the domain name in the bona fide offering of any goods or services;

“(vii) the person's provision of material and misleading false contact information when applying for the registration of the domain name or the person's intentional failure to maintain accurate contact information;

“(viii) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of such persons;

“(ix) the person's history of offering to transfer, sell, or otherwise assign domain names incorporating marks of others to the mark owners or any third party for consideration without having used, or having an intent to use, the domain names in the bona fide offering of any goods and services;

“(x) the person's history of providing material and misleading false contact information when applying for the registration of other domain names which incorporate marks, or the person's history of using aliases in the registration of domain names which incorporate marks of others; and

“(xi) the extent to which the mark incorporated in the person's domain name registration is distinctive and famous within the meaning of subsection (c)(1) of section 43 of the Trademark Act of 1946 (15 U.S.C. 1125).

“(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

“(D) A person shall be liable for using a domain name under subparagraph (A)(ii) only if that person is the domain name registrant or that registrant's authorized licensee.

“(E) As used in this paragraph, the term ‘traffics in’ refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

“(2)(A) In addition to any other jurisdiction that otherwise exists, whether in rem or in personam, the owner of a mark may file an in rem civil action against a domain name in the judicial district in which the domain name registrar, domain name registry, or other domain name authority that registered or assigned the domain name is located, if—

“(i) the domain name violates any right of the owner of the mark; and

“(ii) the owner—

“(I) has sent a copy of the summons and complaint to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and

“(II) has published notice of the action as the court may direct promptly after filing the action.

The actions under clause (ii) shall constitute service of process.

“(B) In an in rem action under this paragraph, a domain name shall be deemed to have its situs in the judicial district in which—

“(i) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located; or

“(ii) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

“(C) The remedies of an in rem action under this paragraph shall be limited to a

court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark. Upon receipt of written notification of a filed, stamped copy of a complaint filed by the owner of a mark in a United States district court under this paragraph, the domain name registrar, domain name registry, or other domain name authority shall—

“(i) expeditiously deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court; and

“(ii) not transfer or otherwise modify the domain name during the pendency of the action, except upon order of the court.

The domain name registrar or registry or other domain name authority shall not be liable for injunctive or monetary relief under this paragraph except in the case of bad faith or reckless disregard, which includes a willful failure to comply with any such court order.

“(3) The civil action established under paragraph (1) and the in rem action established under paragraph (2), and any remedy available under either such action, shall be in addition to any other civil action or remedy otherwise applicable.”.

SEC. 3. DAMAGES AND REMEDIES.

(a) REMEDIES IN CASES OF DOMAIN NAME PIRACY.—

(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking “(a) or (c)” and inserting “(a), (c), or (d)”.

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting “(c), or (d)” after “section 43(a)”.

(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

“(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than \$1,000 and not more than \$100,000 per domain name, as the court considers just. The court may remit statutory damages in any case in which the court finds that an infringer believed and had reasonable grounds to believe that use of the domain name by the infringer was a fair or otherwise lawful use.”.

SEC. 4. LIMITATION ON LIABILITY.

Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—

(1) in the matter preceding subparagraph (A) by striking “under section 43(a)” and inserting “under section 43(a) or (d)”;

(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

“(D)(i) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary or injunctive relief to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.

“(ii) An action referred to under clause (i) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—

“(I) in compliance with a court order under section 43(d); or

“(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another's mark.